



**PAG-13  
AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
GENERAL PERMIT FOR STORMWATER DISCHARGES FROM  
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)  
FACT SHEET**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* (the "Act") and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 *et seq.*, the Department of Environmental Protection (DEP) is authorizing the discharge of stormwater from small MS4s to surface waters of the Commonwealth under the PAG-13 General Permit. The purpose of this document is to explain the basis for the effluent limitations and terms and conditions of the renewal of the PAG-13 General Permit, in accordance with 25 Pa. Code § 92a.53 (relating to documentation of permit conditions). The renewed PAG-13 General Permit will become effective on March 16, 2018.

A draft PAG-13 General Permit was published in the Pennsylvania Bulletin on May 30, 2015. A 60-day comment period was provided, and interested parties were directed to submit comments to the Bureau of Point and Non-Point Source Management, Rachel Carson State Office Building, PO Box 8774, Harrisburg, PA 17105-8774, 717-787-5017. Written comments submitted during the 60-day comment period will be retained by DEP and considered in making a final determination. DEP will provide an opportunity for any interested person or group of persons, any affected State, any affected interstate agency, EPA or any interested agency, to request or petition for a public hearing with respect to the proposed General Permit. The request or petition for public hearing, which must be filed within the 60-day period allowed for filing of written comments, must indicate the interest of the party filing the request and the reasons why a hearing is warranted. A hearing will be held if there is significant public interest.

**Commented [OE1]:** Comments need to be responded to in accordance with federal regulations, not just considered.

#### **SCOPE**

The PAG-13 General Permit is intended to provide NPDES permit coverage to ~~existing or proposed~~ regulated small MS4s for discharges of stormwater to surface waters of the Commonwealth. Permittees operating under this General Permit have been either automatically designated as regulated by EPA pursuant to 40 CFR § 122.32(a)(1) or designated as regulated by DEP under 40 CFR § 122.32(a)(2).

#### **NOI REQUIREMENTS**

Persons seeking coverage under the PAG-13 General Permit must submit an administratively complete and acceptable NOI at least 180 days prior to commencing any discharge. Persons authorized to discharge from a regulated small MS4 under an individual NPDES permit who are seeking coverage under this General Permit may continue to discharge in accordance with the individual permit while their NOI and associated documents are being reviewed by DEP.

The intent of DEP in issuing the PAG-13 General Permit is that once approval to operate under the General Permit has been authorized by DEP, an NOI to renew coverage is not required unless specified by DEP in writing. The Annual MS4 Status Report will also serve as an NOI for ongoing coverage. As a part of the Annual MS4 Status Report, the permittee must agree and certify that the permittee has read and continues to be eligible for coverage under the most recent PAG-13 General Permit and that it will comply with any conditions and modifications to those conditions. Coverage will continue as long as DEP reissues the General Permit and compliance with the General Permit is maintained. Notice of each approval of coverage and reissuance of the PAG-13 General Permit will be published by DEP in the *Pennsylvania Bulletin*.

The NOI fee for coverage under this General Permit is \$500 per year the permittee operates under the General Permit. Over a 5-year period, this complies with the requirement in 25 Pa. Code § 92a.26(g) that NOI fees may not exceed \$2,500. The initial \$500 is paid with the NOI for permit coverage, and then an installment of \$500 will be paid each year, to be submitted with an annual report, if stormwater discharges have not been terminated by the annual report due date.

#### DISCHARGES NOT AUTHORIZED BY THIS GENERAL PERMIT

The following discharges are not authorized under the PAG-13 General Permit, and DEP may deny coverage under the General Permit when one or more of the following conditions exist:

1. The discharge, individually or in combination with other similar discharges, is or has the potential to be a contributor of pollution, as defined in the Pennsylvania Clean Streams Law, which is more appropriately controlled under an individual permit.
2. The discharger is not, or will not be, in compliance with one or more of the conditions of the General Permit.
3. The applicant has failed and continues to fail to comply or has shown a lack of ability or intention to comply with a regulation, permit, schedule of compliance or order issued by DEP.
4. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.
5. Categorical point source effluent limitations are promulgated by the EPA for those point sources covered by the General Permit.
6. The discharge is not, or will not, result in compliance with an applicable effluent limitation or water quality standard.
7. Other point sources within the MS4 require issuance of an individual permit, and issuance of both an individual and a General Permit for the facility would constitute an undue administrative burden on DEP.
8. Any discharge from the regulated small MS4 is or would be to a surface water classified as a High Quality (HQ) or an Exceptional Value (EV) water under 25 Pa. Code Chapter 93 (relating to Water Quality Standards).
9. The discharge(s) contain toxic or hazardous pollutants, or any other substance which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or contribute to an increase in mortality or morbidity in either an individual or the total population, or pose a substantial present or future hazard to human health or the environment when discharged into surface waters.
10. The discharge(s) individually or cumulatively have the potential to cause significant adverse environmental impact or have been determined by DEP to have caused impairment to the receiving waters.
11. The discharge(s) would adversely affect a listed endangered or threatened species or its critical habitat.
12. The MS4 is covered by an individual permit, and coverage under this General Permit would result in less stringent effluent limitations or terms and conditions.
13. DEP determines that the denial of coverage is necessary for any other reason to ensure compliance with the Federal Clean Water Act, the Pennsylvania Clean Streams Law or DEP regulations.
14. The regulated MS4 is a large or medium MS4 as defined in 40 CFR §§ 122.26(b)(4) or (7).
15. The permittee is implementing a local or tribal Qualifying Local Program (QLP) pursuant to 40 CFR 122.44(s).
16. The regulated small MS4 is assigned a wasteload allocation (WLA), individually or in aggregate, in a Total Maximum Daily Load (TMDL) approved by the U.S. Environmental Protection Agency (EPA), where the pollutant(s) of concern are nutrients (i.e., nitrogen and/or phosphorus) and/or sediment (i.e., siltation), and the MS4 is identified in the "MS4 Requirements Table" (see definitions).
17. The regulated small MS4 discharges to waters impaired for nutrients and/or sediment without an EPA-approved TMDL or otherwise discharges to the Chesapeake Bay watershed, is identified in DEP's "MS4 Requirements Table", and has not developed and submitted a Pollutant Reduction Plan (PRP) with the NOI to reduce pollutant loading for the cause(s) of impairment.

**Commented [OE2]:** Does this mean that discharges to 303(d) listed segments are not allowed to use this permit?

18. Discharges that are commingled with sources of non-stormwater unless such non-stormwater discharges are identified in the "Discharges Authorized by this General Permit" section of this General Permit or are in compliance with a separate NPDES permit and do not cause or contribute to pollution.
19. Stormwater discharges associated with industrial activity as defined in 40 CFR §§ 122.26(b)(14)(i)-(ix) and (xi).
20. Stormwater discharges associated with construction activity as defined in 40 CFR § 122.26(b)(14)(x) or 40 CFR § 122.26(b)(15).

The eligibility criteria above are explained as follows:

- Eligibility criteria numbered 1 through 8 and 13 are those identified in 25 Pa. Code § 92a.54(e), i.e., conditions that will result in the denial of coverage under a General Permit.
- Eligibility criteria 9 and 10 are generally identified in 25 Pa. Code §§ 92a.54(a)(5) and (7), respectively, which are prohibitions on DEP to issue General Permits for these conditions.
- Eligibility criterion number 12 is based on DEP's interpretation of federal anti-backsliding policy.
- Eligibility criterion 11 is based on DEP's judgment; this criterion has been used in other DEP-issued NPDES General Permits.
- Eligibility criterion 14 is a prohibition on medium or large MS4s using the PAG-13 General Permit for NPDES permit coverage (individual permits are required for medium or large MS4s in Pennsylvania).
- Eligibility criterion 15 refers to the potential for MS4s to use their own QLP to implement DEP's stormwater discharges associated with construction activities program under 25 Pa. Code Chapter 102; if an MS4 does not use DEP (and/or its delegated agencies) to implement the requirements under Chapter 102, the MS4 is not eligible for PAG-13 General Permit coverage and must apply for an individual permit.
- Eligibility criterion 16 indicates that where an MS4 is identified in a TMDL as having a specific (individual) or bulk (aggregate) WLA for nutrients and/or sediment, the MS4 is ineligible for PAG-13 General Permit coverage and must submit an individual permit application. To assist MS4s in determining whether or not this eligibility criterion applies, DEP has developed the MS4 Requirements Table, available at [www.dep.state.pa.us/MS4](http://www.dep.state.pa.us/MS4).
- Eligibility criterion 17 states that where an MS4 discharges stormwater to waters that drain to the Chesapeake Bay, or otherwise local waters that are impaired for nutrients and/or sediment, a PRP is a requirement of the NOI, and where not submitted, the MS4 is not eligible for coverage under the PAG-13 General Permit. MS4s needing a PRP as part of the NOI are identified in the MS4 Requirements Table (listed under Appendix D or Appendix E).
- Eligibility criterion 18 prohibits the commingling of non-stormwater with the MS4's stormwater discharges, unless the non-stormwater is authorized under the General Permit. MS4s with knowledge of non-stormwater discharges other than those authorized by the General Permit are ineligible for coverage.
- Eligibility criterion 19 states that NPDES permit coverage for stormwater discharges associated with small MS4s does not constitute permit coverage for stormwater discharges associated with industrial activity. An industrial facility or activity that is required to obtain NPDES permit coverage must independently seek and obtain permit coverage, even if the industrial stormwater discharge enters the MS4.
- Eligibility criterion 20 states that NPDES permit coverage for stormwater discharges associated with small MS4s does not constitute permit coverage for stormwater discharges associated with construction activity. A construction activity that is required to obtain NPDES permit coverage must independently seek and obtain permit coverage, even if the construction stormwater discharge enters the MS4.

#### PROPOSED GENERAL PERMIT MODIFICATIONS

The following sections describe proposed modifications to the proposed PAG-13 General Permit that will become effective on March 16, 2018 ("2018 General Permit") in comparison to the PAG-13 General Permit that became effective on March 16, 2013 ("2013 General Permit").

#### Expiration of Coverage

As discussed previously in this document, DEP is proposing to eliminate the need for the submission of renewal NOIs every five years by incorporating the NOI requirements into the MS4 Annual Status Report form. As a result, DEP would not specify an expiration date of coverage on the permit. DEP may however require the submission of a renewal NOI at any time. The expiration date of the 2018 General Permit will be March 15, 2023, but an MS4's coverage will continue indefinitely without the need for renewal NOI submissions as long as 1) DEP reissues or administratively extends the General Permit, 2) the permittee continues to be eligible for General Permit coverage, 3) the permittee submits its MS4 Annual Status Reports and is otherwise in compliance, and 4) DEP does not notify the permittee that a renewal NOI is required.

#### Authorized Non-Stormwater Discharges

DEP proposes to modify the list of authorized non-stormwater discharges to MS4s in the 2018 General Permit as follows:

- In addition to air conditioning condensate, DEP proposes to authorize the discharge of non-contaminated water from geothermal systems.
- DEP proposes to clarify that water resulting from residential (not commercial) car washing may be discharged to the MS4 only when cleaning agents are not utilized.
- DEP proposes to remove dechlorinated swimming pool discharges from the list of authorized non-stormwater discharges. DEP's policy as presented in its fact sheet, "Swimming Pool Water Discharge Guidelines" (3800-FS-DEP4251), calls for disposal of dechlorinated swimming pool water to sanitary sewers or otherwise the subsurface, but not streams or storm sewers.
- DEP is proposing to add non-contaminated hydrostatic test water discharges that do not contain detectable concentrations of Total Residual Chlorine (TRC) to the list of authorized non-stormwater discharges.

DEP proposes to also add clarification concerning General Permit coverage for stormwater discharge points (outfalls). When DEP approves coverage under the General Permit, it is authorizing stormwater discharges from all outfalls identified in the NOI. In the course of a permittee's investigations it may be discovered that additional outfalls exist as part of the MS4. In such cases the permittee must submit written notification to DEP within 90 days of identifying such additional outfalls to supplement the NOI. If however new stormwater outfalls are proposed, the permittee must provide written notification to DEP at least 180 days prior to commencing a discharge, unless such discharges would not meet the criteria specified in the "Discharges Not Authorized By This General Permit" section, in which case an individual permit application must be submitted at least 180 days prior to commencing a discharge.

#### Automatic Coverage Under General Permit

The PAG-13 General Permit was first published in 2003. The General Permit was administratively extended multiple times and expired on March 15, 2013, the day prior to the effective date of the 2013 PAG-13 General Permit. Some MS4s believed that they were still operating under the expired (2003) General Permit because DEP had not issued a written approval of coverage to operate under the 2013 General Permit. However, absent a further administrative extension, an operator cannot discharge under an expired permit, and in fact MS4s were operating under the 2013 General Permit whether DEP had issued written approval of coverage or not.

This issue will be clarified in the 2018 General Permit. There are specific provisions of the 2018 General Permit that call for actions to be taken by the permittee once DEP has issued formal approval of coverage; those provisions include the submission of new or updated ordinances, Part C II and Appendices A – E. All other provisions of the 2018 General Permit are effective and must be complied with upon the effective date of the reissued General Permit on March 16, 2018.

The following language is proposed to address this issue:

*If the permittee submits a timely NOI for coverage under this General Permit (i.e., at least 180 days prior to expiration of General Permit coverage unless a later date is authorized by DEP) and the previous General Permit expires, the permittee is authorized to continue discharging under the terms and conditions of this*

**Commented [OE3]:** Is this in the permit? If not, it should be added as a permit requirement, not just listed in the fact sheet.

*General Permit. The permittee must comply with all terms and conditions in this General Permit with the exception of requirements that do not take effect until DEP's approval of coverage (i.e., enactment of or revisions to the Stormwater Management Ordinance, Part C II and Appendices A – E herein).*

It is noted that unless DEP requires the submission of a renewal NOI by an existing permittee, DEP will no longer issue written approval of coverage once an MS4 permittee is covered under the 2018 General Permit.

**Commented [OE4]:** How can coverage be approved forever? Is this allowed/legal?

#### Definitions

Certain definitions in Part A of the General Permit have been updated to better conform to state and federal regulatory definitions. In addition several new definitions have been introduced for terms used in the General Permit, including but not limited to "storm sewershed," which is a new term used to describe the area that drains into a municipal storm sewer that is the responsibility of a permittee when developing Pollutant Reduction Plans under the General Permit.

#### Record Retention

DEP is proposing to clarify the issue of retention of records in Part A of the General Permit. The 2013 General Permit indicates that records relating to the stormwater management program must be retained for a minimum of three years and until at least one year after coverage under this General Permit terminates. Records of monitoring information, reports and data used to complete the NOI must be retained until at least one year after coverage under this General Permit terminates.

This language is confusing in that it could be perceived as needing to maintain all records for an indefinite period of time. For the 2018 General Permit, DEP proposes to clarify the language to conform to 40 CFR § 122.34(g)(2), as follows:

*All records of monitoring activities and results, copies of all reports required by this permit, and records of all data used to complete the application for this permit shall be retained by the permittee for at least 3 years from the date of the sample measurement, report or application. Such records must be submitted to DEP upon request or as required for annual reports. The permittee must make records available to the public at reasonable times during regular business hours.*

#### Reporting Requirements

The 2013 General Permit requires certain MS4s to submit annual reports within 90 days of the anniversary of General Permit coverage approval and other MS4s to submit progress reports within 60 days following years one and three of coverage approval and with the renewal NOI.

DEP is proposing to streamline reporting by requiring an Annual MS4 Status Report that would be due each year by September 30 for all MS4 permittees. The Annual Report would be intended to 1) serve as the MS4 permittee's notice of intent to continue operating under the General Permit and 2) report on activities conducted during the July 1 - June 30 reporting period. The first Annual MS4 Status Report under the 2018 General Permit will be due September 30, 2019, and will cover activities completed from the end of the latest annual or progress report period (under the 2013 General Permit) to June 30, 2019.

The Annual MS4 Status Report must be submitted to the appropriate DEP regional office using DEP's annual report template (3800-FM-BPNPSM0491). At the same time the Annual Report is due a fee in the amount of \$500.00 is due and must be submitted to DEP's Central Office. This fee is an installment of the NOI fee for ongoing General Permit coverage. DEP will generally transmit an invoice for payment three months in advance of the payment due date.

In the event DEP develops electronic system(s) for the acceptance of Annual Reports and/or fees, permittees must begin using the electronic system(s) upon written notice by DEP.

#### Potential Pollution and Non-Compliance Reporting

The 2013 General Permit did not contain provisions concerning potential pollution and non-compliance reporting contained in 25 Pa. Code § 91.33, 25 Pa. Code § 92a.41(b), and 40 CFR § 122.41(l). The 2018 General Permit will contain these provisions, which are generally used for all DEP-issued NPDES General Permits. MS4 permittees have

an obligation under state and federal regulations to report all incidents causing or threatening pollution (e.g., spills into an MS4 that could cause adverse impacts to surface waters or public health) and other non-compliance to DEP.

#### Stormwater Management Program

The required stormwater management program (SWMP) is identified in Appendix A of the 2013 General Permit. The SWMP language has been moved to Part C I of the 2018 General Permit. The SWMP will continue to be based on the federal Minimum Control Measures (MCMs) as described in 40 CFR § 122.34(b), but some changes are proposed:

- For MCM #2 (Public Involvement / Participation), clarification has been added that all plans, programs, maps and reports developed by the permittee under the General Permit must be posted to the permittee's website or be made available at the permittee's office(s) or through mail.
- For MCMs #4 (all BMPs) and #5 (BMPs #1 - #3), the 2013 General Permit states that if an MS4 reports in the NOI that it is or will rely on DEP's Chapter 102 program for stormwater associated with construction activities and post-construction stormwater management (PCSM), it has satisfied these requirements. DEP is proposing to clarify in the 2018 General Permit that responsibility ultimately rests with the permittee for compliance with all provisions of the General Permit by removing statements that serve to alleviate an MS4's responsibility for certain activities from the 2013 General Permit.

Conservation districts frequently carry out the functions of the Chapter 102 program on behalf of DEP, but the duties and responsibilities of conservation districts vary depending on delegation agreements. In the past, MS4s have sometimes assumed that a conservation district would perform a specific function that it was not authorized and/or did not receive funding to implement, and as a result necessary tasks were not completed.

DEP's proposed 2018 General Permit NOI would require the submission of a Memorandum of Understanding (MOU) or other written agreement between the applicable conservation district and the applicant to clarify roles and responsibilities for construction stormwater and PCSM, much in the same way that an MS4 permittee would use a written instrument to identify roles and responsibilities with a third party for implementation of other MCMs. In the event that a conservation district does not receive funds to implement certain responsibilities from DEP, the permittee could (particularly in concert with other MS4s) agree to provide funding to implement those responsibilities. MOUs or written agreements should include the sharing of information between the conservation district and the permittee for completion of annual reports and to satisfy record retention requirements under the General Permit.

**Commented [OE5]:** I see this requirement in the permit for MCM #4 but not MCM #5.

#### Pollutant Control Measures and Pollutant Reduction Plans

Part C II of the 2018 General Permit and Appendices A – E would require the implementation of Pollutant Control Measures (PCMs) and Pollutant Reduction Plans (PRPs) for stormwater discharges to impaired surface waters. These requirements only take effect upon DEP's written approval of coverage. DEP's MS4 Requirements Table, available at [www.dep.state.pa.us/MS4](http://www.dep.state.pa.us/MS4), identifies the responsibilities for MS4s during the term of the 2018 General Permit for implementing PCMs under Appendices A, B, and C of the General Permit and for developing and implementing PRPs under Appendices D and E of the General Permit. These requirements are described as follows:

- PCMs are activities undertaken by the MS4 permittee to identify and control pollutant loading to impaired waters from MS4s, regardless of whether a TMDL has been approved. PCMs are BMPs and other strategies that are in addition to the permittee's SWMP identified in Part C I of the General Permit. PCMs must be implemented where the permittee 1) has at least one stormwater outfall that discharges directly or indirectly (i.e., upstream) to impaired waters, and 2) the "cause of impairment" is one or more of the causes listed in paragraphs 1 through 3, below.
  1. Where receiving waters are impaired for metals (e.g., Iron, Manganese and Aluminum) and/or pH associated with Acid Mine Drainage (AMD), the permittee must implement the PCMs identified in **Appendix A** of the General Permit.
  2. Where receiving waters are impaired for Pathogens (e.g., Fecal Coliform), the permittee must implement the PCMs identified in **Appendix B** of the General Permit.

3. Where receiving waters are impaired for Priority Organic Compounds (e.g., Polychlorinated Biphenyls (PCBs), pesticides, or other organic compounds), the permittee must implement the PCMs identified in **Appendix C** of the General Permit.
- A PRP is a planning document prepared by the permittee which guides the selection and implementation of specific BMPs to reduce pollutant loading to surface waters. The objective of a PRP is to improve the condition of surface waters such that the waters eventually attain water quality standards and its designated and existing uses in accordance with 25 Pa. Code Chapter 93. A PRP must be developed and submitted to DEP with the NOI if one or more of the following criteria are met:
    1. At the time of the NOI submission or at any time following DEP's approval of permit coverage, the permittee has at least one stormwater outfall that discharges to receiving waters within the Chesapeake Bay watershed, or otherwise at least one discharge to storm sewers owned or operated by a different entity within the Chesapeake Bay watershed. Upon approval of General Permit coverage, permittees must implement the PRP in accordance with **Appendix D** of this General Permit.
    2. At the time of the NOI submission or at any time following DEP's approval of permit coverage, the permittee has at least one stormwater outfall that discharges to waters impaired for nutrients (i.e., Total Nitrogen (TN) and/or Total Phosphorus (TP)) and/or sediment (i.e., siltation), and a TMDL has not been approved for such waters or otherwise a wasteload allocation (WLA) has not been assigned to the permittee's discharge(s) in a TMDL. Upon approval of General Permit coverage, permittees must implement the PRP in accordance with **Appendix E** of this General Permit.
  - PCMs involve, **at a minimum**, the development of a storm sewershed map that delineates the drainage area of outfall(s) that discharge to impaired waters (to be submitted with the first MS4 Annual Status Report following DEP's written approval of coverage); an inventory of known and suspected sources of the pollutants of concern in stormwater discharges (to be submitted with the first Annual Report following DEP's written approval of coverage); an investigation of suspected sources (to be submitted with the fourth Annual Report following DEP's written approval of coverage); and documentation of ongoing PCM implementation in Annual Reports. Other requirements including the enactment of an ordinance, elimination of illicit and illegal discharges, and notification to DEP of sources originating from industrial sites.
  - The required contents of a PRP for nutrients and/or sediment are explained in a separate document containing PRP Instructions (3800-PM-BPNPSM0100k). Baseline pollutant loadings must be estimated and the MS4 must select BMPs that will achieve a minimum 5% and 10% pollutant loading reduction for TP and sediment, respectively. The required reductions must be achieved within 5 years following DEP's written approval of coverage under the General Permit. A PRP is approved when DEP issues written approval of coverage, after which permittees must adhere to the requirements in Appendix D (Chesapeake Bay) and/or Appendix E (local impaired waters) of the General Permit.

For Chesapeake Bay PRPs and Appendix D, DEP chose 10% as the minimum required reduction for sediment because of DEP's obligations to reduce the loading of sediment in urban stormwater under the 2010 Chesapeake Bay TMDL. DEP believes that in general a 10% pollutant loading reduction for sediment is readily achievable within five years in urbanized areas. DEP chose 5% as the minimum required reduction for TP and did not establish a reduction requirement for TN because most BMP reductions for sediment will also achieve reductions for TP, considering that TP is typically bound to sediment. TN reductions are generally more difficult to achieve, so a reduction requirement will not be specified in the General Permit; permittees will still need to quantify TN reductions as a result of the BMPs implemented to reduce TP and sediment loading.

For local impaired waters, PRPs and Appendix E, DEP also chose 10% and 5% minimum reductions for sediment and TP, respectively, under the same rationale as for Chesapeake Bay PRPs.

For either type of PRP, a PRP is not required and the permittee is not required to follow Appendix D and/or Appendix E in the PAG-13 General Permit, as applicable, if the applicant has completed its mapping and demonstrates that both of the following apply:

1. There are no stormwater discharges to the Chesapeake Bay watershed, and
2. There are no stormwater discharges to locally impaired waters for nutrients and/or sediment.

**Commented [OE6]:** See comment letter. The permit must include a reduction for N as well. In addition, the fact sheet must explain the rationale for the selected numeric requirements for all pollutants.

- Language has been developed for Appendices D and E that requires public involvement for any modification to a PRP. Public involvement is a requirement for the submission of a new PRP with the NOI.

Where wasteload allocations (WLAs), either specific to an MS4 (individual) or in bulk to a group of MS4s (aggregate), are identified in a TMDL for nutrients and/or sediment, the MS4 will no longer be eligible for coverage under the 2018 General Permit. Such MS4s will need to develop a TMDL Plan for submission with an individual permit application.

#### Waiver Application

DEP is also seeking to develop a set of eligibility requirements for small MS4s that are more easily understood and applied.

Waivers may be approved by DEP when the following is true:

- 1) The population within the urbanized area (UA) is less than 10,000; and 2) there are no WLA(s) in an approved TMDL; and 3) MS4 discharges do not impact waters considered impaired for BOD (organic enrichment), sediment (siltation), pathogens, oil and grease, and/or nutrients (including excessive algal growth), including the Chesapeake Bay watershed.